

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for Oct. 13, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #04060

PROPOSAL: A change of zone from AG Agriculture to H-3 Highway Commercial

LAND AREA: 10.09 Acres, more or less

CONCLUSION: This zoning will permit the relocation of a viable existing commercial operation. This request is in conformance with some policies in the Comprehensive Plan but not others. The approval is conditioned on a development agreement/contact whereby the applicant applies for a subdivision and completes the requirements of the final plat and the elimination of the "panhandle" area along Highway 34.

RECOMMENDATION:

Conditional Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: A 10.09 acre parcel located in the NE 1/4 of Section 31, T 11 N, R 6 E of the 6th P.M., Lancaster County NE. Metes and Bounds description attached.

LOCATION: Generally located at the northwest corner of N. W. 48th Street and Highway 34.

EXISTING ZONING: AG Agriculture

EXISTING LAND USE: pasture/farming

SURROUNDING LAND USE AND ZONING:

North: Ag land, zoned AG Agriculture

South: Ag land and Commercial land, zoned AG Agriculture and H-3 Highway Commercial

East: Ag land, zoned AG Agriculture

West: Ag land, zoned AG Agriculture

ASSOCIATED APPLICATIONS: None

HISTORY: Changed from County AA Rural and Public Use to AG Agriculture in the 1979 Zoning Update. The land to the south was changed from AG to H-3 in April 1995 (cz 2892).

Along the south side of Highway 34 Change of Zone #04022 from AG to H-3 received an approval recommendation from the Planning Commission. This change of zone has not been presented to the City Council at this time.

COMPREHENSIVE PLAN SPECIFICATIONS: This area is shown as Agriculture adjacent to Commercial on the Land Use Plan (pg F 23). This is in the Lincoln growth Tier III. A Comprehensive Plan Amendment was approved earlier this year that reflects this area and suggests it be studied for suitability for Tier I or II (CPA #04016). The 2025 Comprehensive Plan states:

Commercial and industrial districts in Lancaster County shall be located:

- within the City of Lincoln or incorporated villages
- outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except for areas of existing commercial and industrial zoning)
- where urban services and infrastructure are available or planned for in the near term
- in sites supported by adequate road capacity – commercial development should be linked to the implementation of the transportation plan
- in areas compatible with existing or planned residential uses
- in areas accessible by various modes of transportation (i.e. automobile, transit and pedestrian)
- so that they enhance entryways or public way corridors, when developing adjacent to these corridors
- in a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this Plan. Pg F 38

Existing businesses flourish and there are opportunities for new businesses within Lincoln and the incorporated communities. The Plan provides new employment locations and supports retention of existing businesses. Pg F 16

Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. Maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with, but not intrusive upon residential neighborhoods.

Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas. Pg F 49

During the planning period, improvements are planned for Interstate 80 and many of the existing Nebraska State Highways in Lincoln and Lancaster County. These improvements can generally be categorized as the widening of roadways or construction of interchanges. All of the projects listed below are considered to have funds committed to their construction during the planning period:

US-34, West, city limits west to county line 4 lanes + turn lanes Pg F 106

UTILITIES: No utilities are available

TOPOGRAPHY: Flat

TRAFFIC ANALYSIS: Highway 34/ Purple Heart Highway is a Federal highway with limited access and a 50' from centerline building line district. Northwest 48th/Woodlawn is a city major street with a 50' from centerline building line district. The State of Nebraska is in the process of a project to realign N.W. 48th and N.W. 40th Streets to a common intersection on Highway 34. Highway 34 will be a four lane facility with medians and turn lanes at this location.

NW40th St. is not classified on the "Future Functional Classification" map nor included on the "Future Road Improvements in the County" map in the comprehensive plan.

The State's Transportation Improvement Plan indicates construction of Highway 34 in 2005-2006.

PUBLIC SERVICE: This is served by the Malcolm Rural Fire District, County Sheriff, and Malcolm School District #148.

REGIONAL ISSUES: NA

ENVIRONMENTAL CONCERNS: No historic or environmental resources are noted on this parcel.

This is within the Airport Noise zone 60DNL contour and is under the approach to runway 14. The soil types at this site are classified as "Prime".

Since there are not City utilities available private water wells and private wastewater facilities will be required to serve the uses.

AESTHETIC CONSIDERATIONS: Entrance to the city. This is not in an identified Capital View Corridor.

ALTERNATIVE USES: Agriculture

ANALYSIS:

1. This proposal is for a change of zone on a 10.09 acre parcel to relocate and expand the existing convenience shop now located on 2.98 acres currently zoned B -1. The land and buildings will be impacted by the Department of Roads Right - of - Way for

the realignment of NW 48th and NW 40th Streets at this location. The existing convenience store building will remain but will have indirect and circuitous access to the re-aligned NW48th/NW40th Street intersection.

2. The applicant wishes to relocate his operation to a more suitable location due to the road project.
3. This zoning is an expansion across the highway of existing H-3 zoning.
4. The potential timing for this area to be served by city services is proposed to be studied.
5. This applicant is requesting 10.09 acres to relocate the operation from the existing 2.98 acres. The applicant's attorney indicates the increase in size is needed for adequate parking and maneuvering area for trucks, and to accommodate a well and on - site waste treatment.
6. Access to the proposed parcel should be restricted to realigned NW 40th Street and not Highway 34. The access to NW 40th Street should be located 600 feet or more north of Highway 34. The construction plans show the realignment of NW 40th surfaced with gravel immediately north of the Highway 34 intersection. The portion of NW 40th St north from Highway 34 to the driveway access to this property must be paved with a protected left turn lane at the access point. The applicant will be expected to pay for the paving.
7. As a parcel over 10 acres, no plat is required. The applicant's attorney has promised that a final plat for this tract will be submitted in order to assure proper access, easements, paving of NW40th Street, and other review as required by the subdivision regulations. However, staff also would like to see a formal agreement submitted by the applicant to assure that the plat is completed and filed to govern the development of this tract. The plat should not be completed until the new right of way for NW 40th Street is acquired.
8. The change of zone "Lot" does not exist yet but will have to be split off at a later date.
9. As an entryway to the city, the new zoning district should provide a setback of clear space to the Highway. A 50' area along Highway 34 has been shown to remain AG for this purpose from the area of the proposed H -3 district. The 50' area also will acknowledge the entryway to the city, improve visual impact and allow for possible future needs for intersection improvement. A similar provision was made part of a similar "replacement" rezoning (CZ04022) on the south side of the highway, earlier this year.

10. Staff recommends approval of the request, excluding the 50 foot wide "panhandle" along Highway 34. The only purpose for this would be to facilitate future access to Highway 34, which the staff opposes.

Prepared by:

Marvin S. Krout, 441-7491, mkrou@ci.lincoln.ne.gov
Planning Director
October 1, 2004

APPLICANT: Shanna L. Cole or Mark Hunzeker
1045 Lincoln Mall, Suite 200
Lincoln, NE 68509
(402) 476-7621

OWNER: Larry Coffey
P.O. Box 81463
Lincoln, NE 68501
(402) 475-1101

CONTACT: Shanna L. Cole or Mark Hunzeker
1045 Lincoln Mall, Suite 200
Lincoln, NE 68509
(402) 476-7621



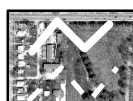
2002 aerial

Change of Zone #04060 NW 48th & Hwy #34

Zoning:

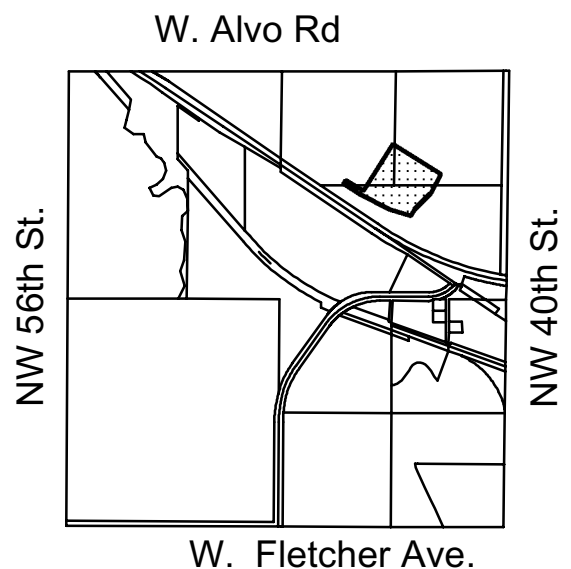
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 31 T11N R6E



Zoning Jurisdiction Lines

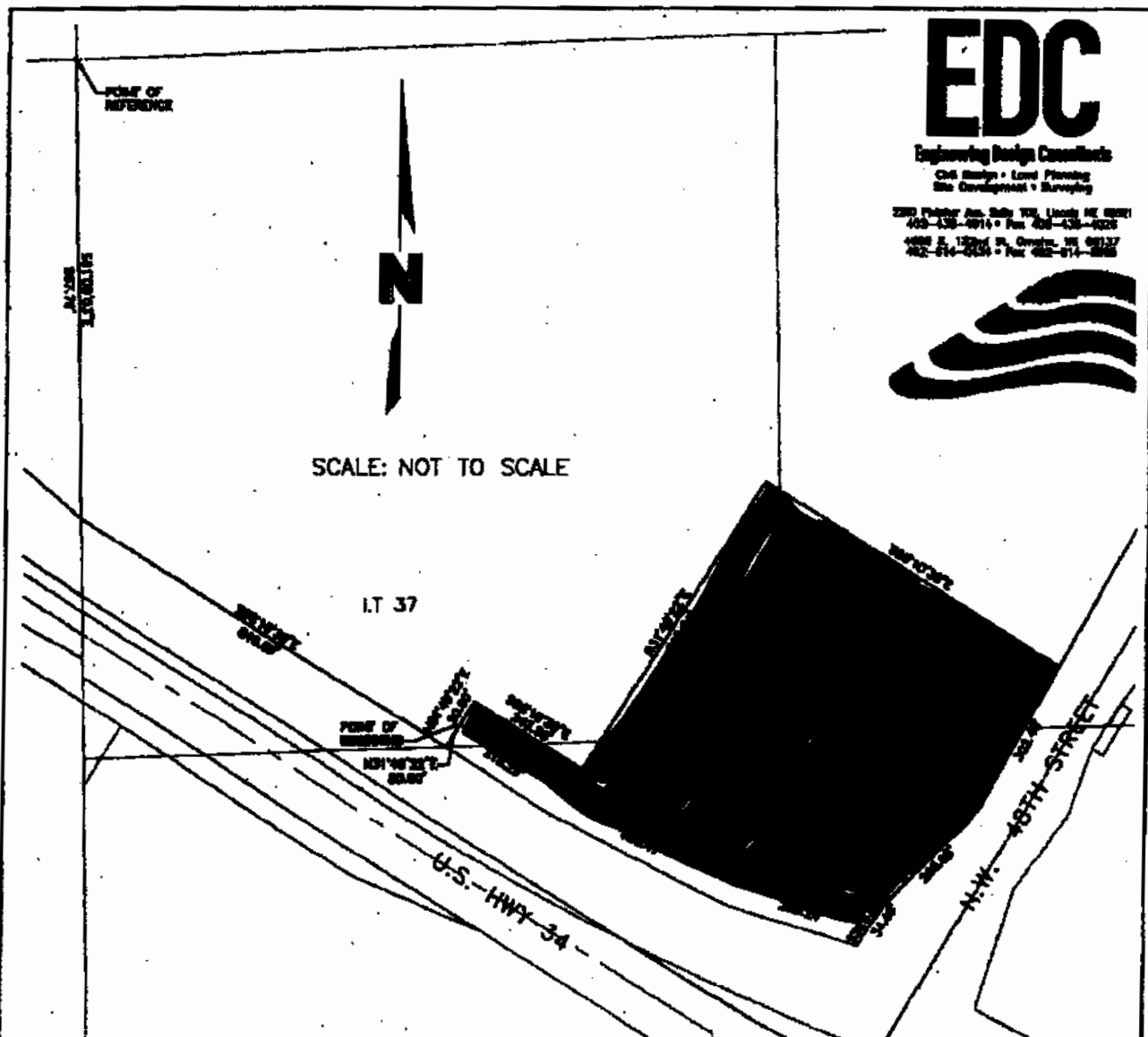
City Limit Jurisdiction



Sep 30 2004 12:44PM EDC LINCOLN

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p. 2



EDC

Engineering Design Consultants

Civil Design • Land Planning
Site Development • Surveying2200 Parker Ave. Suite 100, Lincoln NE 68501
402-438-4016 • Fax 402-438-40264000 E. 152nd St., Omaha NE 68137
402-214-2136 • Fax 402-214-2136

CHANGE OF ZONE LEGAL DESCRIPTION

A TRACT OF LAND COMPOSED OF A PORTION OF LOTS 36 & 37 LOCATED IN THE NORTHEAST QUARTER AND A PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER ALL IN SECTION 31, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE 8TH P.M., LANCASTER COUNTY, NEBRASKA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

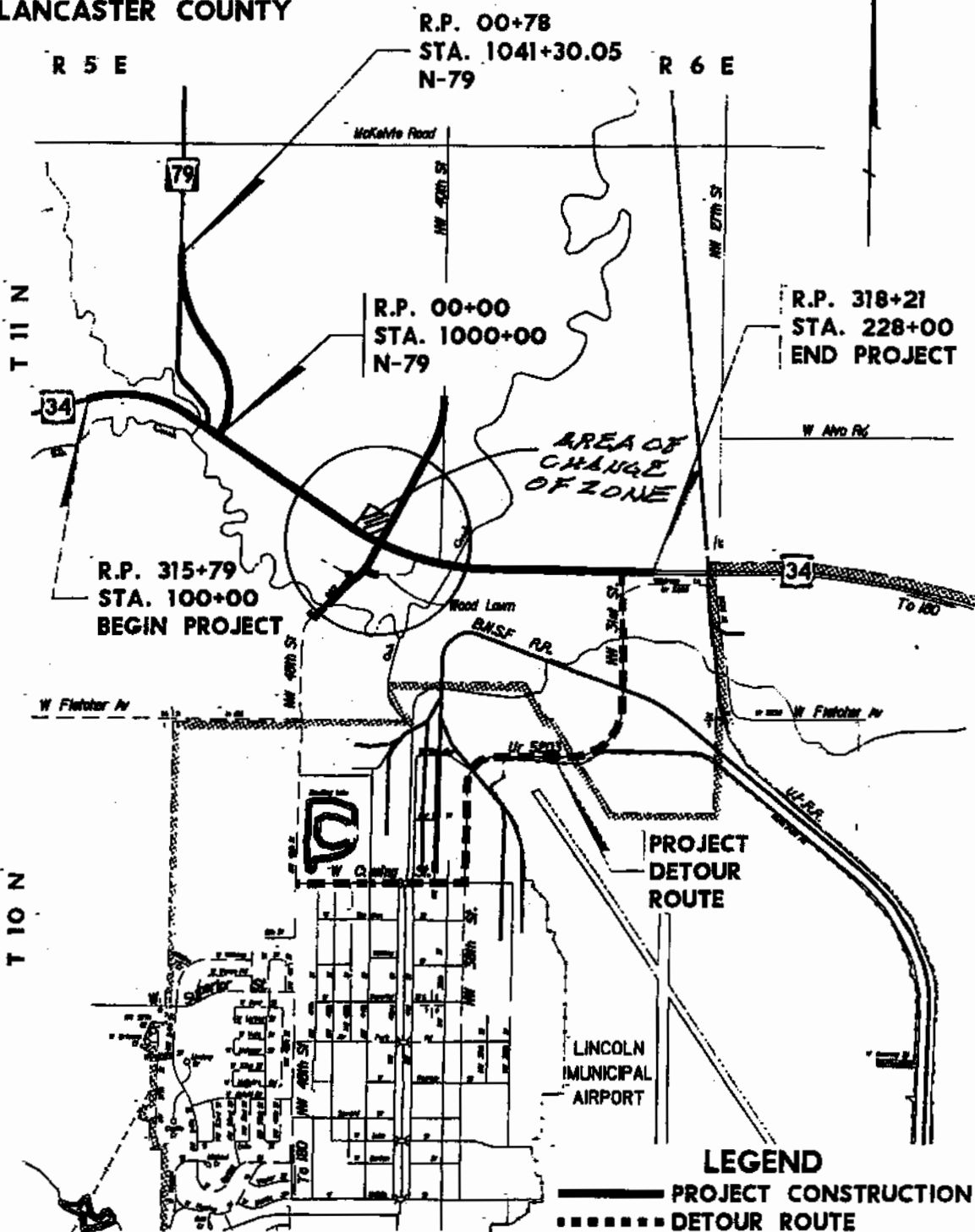
REFERRING TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 31; THENCE ON THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 31; THENCE S01°09'03"E, 857.78 FEET TO THE PROPOSED NORTH RIGHT-OF-WAY LINE OF US HIGHWAY 34; THENCE ON SAID PROPOSED NORTH RIGHT-OF-WAY LINE, S58°10'39"E, 818.83 FEET; THENCE N31°49'22"E, 50.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ON SAID LINE, 50.00 FEET; THENCE S58°10'38"E, 242.50 FEET; THENCE N31°49'22"E, 642.61 FEET; THENCE S58°10'38"E, 857.93 FEET TO THE PROPOSED WEST RIGHT-OF-WAY LINE OF NW 48TH STREET; THENCE ON SAID PROPOSED WEST RIGHT-OF-WAY LINE FOR THE NEXT 3 CALLS, S28°42'22"W, 302.43 FEET; THENCE S44°05'33"W, 285.05 FEET; THENCE S32°13'42"W, 34.48 FEET; THENCE N72°38'55"W, 288.24 FEET; THENCE N62°40'56"W, 383.47 FEET; THENCE N58°10'38"W, 218.29 FEET TO THE POINT OF BEGINNING, CONTAINING 439,897.82 SQUARE FEET (10.09 ACRES) MORE OR LESS.

B...

LINCOLN WEST 34-6(133)

C.N. 12425

LANCASTER COUNTY



Nebraska Department of Roads
Hwy 34 and NW 40th/NW 48th Street project

Pierson | Fitchett
LAW FIRM

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of Counsel

September 2, 2004

Marvin Krout, Director
Lincoln-Lancaster County Planning Dept.
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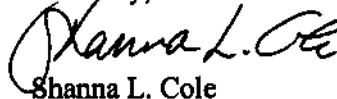
Re: *Change of Zone Application for Larry Coffey*

Dear Mr. Krout:

Attached is an application from Larry Coffey for a change of zone from AGR to H3 on property legally described on the attached exhibit. I certify that Larry Coffey is the owner of this property and the purpose of a request for a change of zone is to relocate an existing convenience store.

If you have further questions or concerns, please feel free to contact Mark Hunzeker or me.

Sincerely,



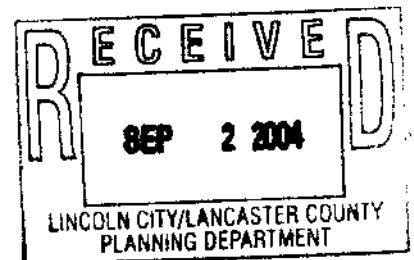
Shanna L. Cole
For the Firm
scole@pierson-law.com

SLC:lh

Enclosure

(G:\WPData\Sc\Coffey Planning Dept. 9-2.ltr.wpd)

Pierson, Fitchett, Hunzeker, Blake & Katt



Memorandum

To:	Mike Dekalb, Planning Department
From:	Dennis Bartels, Engineering Services
Subject:	Change of Zone 04060, AGR to H3
Date:	September 13, 2004
cc:	

The proposed change of zone at the northwest corner of Northwest 40th and Highway 34 has been reviewed by Engineering Services with the following comments:

1. The area of the change of zone cannot be served with City sewer and water.
2. This tract will not have driveway access to Highway 34.
3. Access to the property will need to be taken at the north end of the property from Northwest 40th.